LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 7050
BILL NUMBER: SB 578

NOTE PREPARED: Apr 8, 2011
BILL AMENDED: Apr 7, 2011

SUBJECT: Surplus Lines Insurance Compact.

FIRST AUTHOR: Sen. Simpson
FIRST SPONSOR: Rep. Lehman

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill provides for enactment of a surplus lines insurance compact. The bill specifies requirements applying to compacting states and contracting states with respect to provision of surplus lines insurance in multiple states. It also provides for collection of premium taxes on surplus lines insurance.

Effective Date: July 1, 2011.

Explanation of State Expenditures: This bill provides the statutory structure for Indiana to participate in the Surplus Lines Insurance Compact (SLIMPACT). The Compact is structured to accommodate the federal mandates in the Nonadmitted Reinsurance Reform Act of 2010 (NRRA). This applies to nonadmitted insurance transactions where the issuing insurer is not licensed to issue this insurance in the insured's home state. Currently, the Department of Insurance (DOI) must approve surplus line insurance prior to issuance in Indiana.

(Revised) The bill also specifies the DOI shall not enter into a contract (including a compact or multi-state agreement) unless the DOI has performed all of the following; (1) completed a fiscal analysis of the contract's impact, (2) studied the impact on Indiana's gross receipt of insurance premium taxes, (3) reviewed if the contract will create undue administrative burdens on the state or surplus lines licenses, and (4) concluded entering into the contract is in the state's financial best interest and is consistent with NRRA requirements. This provision is expected to increase the workload of the DOI.

Background: The NRRA provides that surplus line insurance will only be subject to the statutory and regulatory requirements of the insured's home state. An insured's home state is defined as (a) where the insured maintains its principal place of business or (b) if 100% of the risk is outside the state of the insured's principal place of business, the state which has the greatest percentage of risk.

The NRRA prohibits states other than the home state of the insured from requiring premium tax payments for surplus line insurance but allows states to develop an interstate compact for allocation and remittance procedures for these premium taxes. Premium taxes on nonadmitted insurance transactions will be paid in the insured's home state regardless of where the risk is located unless a compact is adopted.

The bill outlines the work of the SLIMPACT Commission and Commission's staff. The SLIMPACT Commission will consist of states that have passed similar SLIMPACT legislation. The Compact becomes effective with the statutory enactment by two compacting states. The Commission and Clearinghouse become effective when there are at least 10 compacting states or the compacting states represent more than 40% of the surplus line insurance premium volume in the nation (percentages are outlined in the bill). If the Compact does not become effective under these conditions, the DOI has the authority to enter into contracts to implement the requirements of the NRRA.

The Compact Commission is to establish an allocation formula and clearinghouse to allocate to the compact states the premium taxes that have been collected on nonadmitted insurance of multistate risks and on single-state risks if the states elect to have the clearinghouse collect these taxes. Each compacting state may charge its own rate of taxation on the premium to be allocated but must establish a single tax rate for all nonadmitted insurance transactions. Indiana currently has a 2.5% premium tax rate for these insurance premiums.

The expenses of the SLIMPACT Commission are to be covered by fees payable by the insured directly or through a surplus lines licensee on each transaction processed through the Compact Clearinghouse.

Each SLIMPACT member-state selects one individual to represent the state on the SLIMPACT Commission. This representative is chosen through a process determined by the SLIMPACT member-state. DOI will incur some administrative and travel expenses for the representative to attend various Commission meetings.

Explanation of State Revenues: Indiana collected approximately $5.9 M in premium taxes on surplus line insurance policies in 2009. Premium taxes have ranged from $5.9 M to $11.6 M from 2003 to 2009. According to the DOI, most of the surplus line insurance placed in Indiana is Indiana business and is called "one state business." Indiana currently retains 100% of the taxes for surplus line premiums written in Indiana and does not allocate tax revenue based on the proportion of risk attributed to individuals in other states.

Membership in the Compact would direct producers of policies that contain multi-state risk to send their premium tax revenue to the Clearinghouse. (Premium tax revenue for in-state business could still be submitted to DOI.) The premium tax revenue for policies with multi-state risks sent to the Clearinghouse would then be distributed based on an allocation formula. It is not clear if Indiana would gain any additional revenue from the allocation of other states' premium tax collections attributed back to Indiana to offset any revenue that Indiana would lose by producers sending premium taxes on multi-state risk for surplus line insurance to be allocated to other states. The bill states that Indiana's share of the total surplus lines insurance premiums in the country is 1.36%.

There is no information available to estimate the overall impact on premium tax revenue to the state. Insurance premium tax revenue is deposited in the General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DOI.

Local Agencies Affected:

Information Sources: Cindy Donovan, Chief Financial Examiner, Department of Insurance, 232-2408.

Fiscal Analyst: Diane Powers, 232-9853.